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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,798	11/13/2001	Stefan Tobolka	SIM0080	3063
832	7590	08/02/2004	EXAMINER	
BAKER & DANIELS 111 E. WAYNE STREET SUITE 800 FORT WAYNE, IN 46802			SIPOS, JOHN	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/010,798

Applicant(s)

TOBOLKA, STEFAN

Examiner

John Sipos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 May 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,7-16,18-24,34,35,37-45,48,54,56-60 and 66-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5,7-16,18-24,54,56-60 and 66-70 is/are allowed.
- 6) ☒ Claim(s) 34,35,37-45 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

**Claims 34,35,37-45 and 48** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Seko (4,288,968) in view of MacFarland (3,874,976). The Seko reference shows opposing heat-sealing jaws operable to come into contact with each other wherein one jaw comprises convex bands 22 energizable to form a pair of seals with a central cutter 25 and an opposing convex backing on the other jaw 21 with a groove 24 aligned with the cutter. The difference between the Seko device and the claimed device is that the groove of Seko comprises an insert 26 that cooperates with the cutter. The patent to McFarland shows opposing heat-sealing jaws operable to come into contact with each other wherein one jaw comprises sealing bands 31,32 with a central cutter 16 and an opposing jaw with a groove 28 aligned with the cutter and which groove free of any inserts. It would have been obvious to one of ordinary skill in the art to eliminate the insert of Seko as shown by McFarland and use a groove that is free of inserts to reduce the number of machine elements and simplify the cutting operation.

The use of electrical insulating backing (claims 35 and 42), curved bands (claim 37), electrical connection tabs (claims 38 and 39) aluminum and silicon backing (claims 40 and 44) are well known in the art and their use in the Seko device would have been obvious to one skilled in the art for their known benefits.

**Claims 34,35,37-45 and 48** is rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Boeckman (5,067,302) in view of MacFarland (3,874,976). The Boeckman reference shows opposing heat-sealing jaws operable to come into contact with each other wherein one jaw comprises convex bands 20

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energizable to form a pair of seals with a central cutter 28 and an opposing backing on the other jaw with a groove 35 aligned with the cutter. The difference between the Boeckman device and the claimed device is that the groove of Boeckman comprises an insert 34 that cooperates with the cutter. The patent to McFarland shows opposing heat-sealing jaws operable to come into contact with each other wherein one jaw comprises sealing bands 31,32 with a central cutter 16 and an opposing jaw with a groove 28 aligned with the cutter and which groove free of any inserts. It would have been obvious to one of ordinary skill in the art to eliminate the insert of Boeckman as shown by McFarland and use a groove that is free of inserts to reduce the number of machine elements and to simplify the cutting operation.

The use of electrical insulating backing (claims 35 and 42), curved bands (claim 37), electrical connection tabs (claims 38 and 39) aluminum and silicon backing (claims 40 and 44) are well known in the art and their use in the Boeckman device would have been obvious to one skilled in the art for their known benefits.

**Claims 34,35,37-45 and 48** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Tobolka (EP0995683 - cited by applicant) in view of Seko (4,288,968) or Boeckman (5,067,302) and further in view of MacFarland (3,874,976). The patent to Tobolka shows a form-fill-seal machine which comprises opposing sealing jaws having a pair of curved bands 226 between which is positioned a cutter band 212. The secondary references show convex sealing bands and backing surfaces that move the product away from the seal area. It would have been obvious to one skilled in the art to form the bands of Tobolka in convex shape as shown by Seko or Boeckman to aid in moving the product away from the sealing area from between the two films. It would

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have been further obvious to one of ordinary skill in the art to eliminate the insert of the Tobolka and Seko/Boeckman combination as shown by McFarland and use a groove that is free of inserts to simplify the cutting operation.

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***ALLOWABLE SUBJECT MATTER***

**Claims 1-5,7-16,18-24,54,56-60 and 66-70 are allowed.**

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***RESPONSE TO APPLICANT'S ARGUMENTS***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The only argument made in the Amendment is that the groove opposing the cutter is free of any inserts and the references applied in the rejections do not show such a feature. The current rejection fully shows this "free of any insert" concept. No other arguments have been made regarding the rejections.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP ? 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



**John Sipos**  
**Primary Examiner**  
**Art Unit 3721**